

**Small Business Regulatory Fairness Board  
Public Hearing  
October 2, 2006  
Springfield, MO**

Board Members in Attendance: Chairman Scott George, Vice Chairman Randy Angst and Michael Ocello

Board Members Absent: Merill Wade, Maria Guadalupe Taxman, Representative Trent Skaggs, Representative Brian Baker and Senator Gary Nodler

Testifying: Doug Ommen, Missouri Department of Insurance; Brenda Treadwell-Martin, Missouri Department of Transportation; Roberta Johnson, Ash Grove; Russ Henry, North Kansas City; Nancy Good, Joplin

Guests: Morris Westfall, Governors Office; Brad Jones, SFIB State Director; Wendell Bailey, US Small Business Administration; Pam Hart, Executive Director of Missouri Land Title Association; Dee Dee Nilsen, Springfield Business Journal; Susan Alden, Regional Manager Long Term Care Department of Health and Senior Services; Kevin Stover, Missouri Department of Economic Development; Carla Mason, Missouri Department of Economic Development; Krista Zurkamer, Missouri Department of Economic Development;

Chairman George called the public hearing to order at 1 p.m. and welcomed everyone to today's events with the Department of Insurance and the Department of Transportation giving testimonies regarding small business regulatory rules.

Chairman George gave a brief overview of the format of the hearing with both agencies allocated 15 minutes each to testify, schedule speakers 5 minutes each and unscheduled speakers 3 minutes each. Both agencies will be present throughout the entirety of the hearing and will not be allowed to question the small business.

Chairman George described the process as 3 steps. The 1<sup>st</sup> as rules are being created if the agency determines small business will be affected get the small business involved to minimize the impact. The 2<sup>nd</sup> is when enforcing rules take in consideration the small business and help comply. The 3<sup>rd</sup> is the review of existing regulatory rules in consideration of the impact on small business, updating and discarding when necessary.

The board members and supporting staff made introductions.

Chairman George also reassured small business wanting to testify of their security. He assured them that there has never been retaliation on the federal or state level. The SBRFB has the support of state officials whom made it very clear retaliation would not be tolerated.

Chairman George commenced with the 1<sup>st</sup> agency testimonial with Doug Ommen, Department of Insurance.

**Agency Testimonial:**

*Doug Ommen, Deputy Director and General Council, Missouri Department of Insurance*  
Doug Ommen expressed his appreciation for the opportunity to speak to the SBRFB and audience. Doug told the SBRFB that he is speaking on behalf of the insurance involved in regulatory rules and what he says today may not represent the department as a whole. There are things the department is doing to remedy some of the issues with regulatory rules. There is an Insurance Advisory Panel consisting of many people who are recognized as having insight into the field of insurance, finance and licensing. The purpose of the panel is to inform and advise the department on how the rule will impact the public. They are also working on going through existing rules and evaluating the impact it may have. Doug gave 2 examples of areas being reviewed at this time; desk drawer rules and the enforcement of rules not in existence. The department also conducts open hearings for all newly created rules. This allows for a fair opportunity of everyone to evaluate the purposed rule. In the past they have held forums and meetings to gather information from the different markets with the sole purpose of opening the communication. Doug also introduced the new additions to the Department of Insurance with the addition of Finance and Professional Registration. The merge began in August 2006 and Doug was yet prepared to comment on the regulatory rule concerns for Finance and Professional Registration as thoroughly. Doug concluded that the division is conducted a comprehensive review of all the rules and an attorney in each division is going through the rules to reflect the content is reasonable in small business.

**Questions:**

*Vice Chairman Randy Angst Asked*

Could you clarify the statement recognizing the law implements the stature?

*Doug Ommen*

There is no need to take the impact review restating what is in the statute by code. Clearly by the content of the statute we would not have the kind of analysis.

*Vice Chairman Randy Angst*

How many desk drawer rules have been eliminated?

*Doug Ommen*

Four desk drawer rules of substance.

*Vice Chairman Randy Angst*

Vice Chairman Angst commented on this being a good step.

*Doug Ommen*

Most of the objections are from large business not small business.

*Chairman Scott George*

Chairman George applauded Department of Insurance for their rule review and would be interested in what they find and knowing if the rules were reworked to lessen the impact on small business. Implementing the statute falls outside of our area of responsibility but suggested Doug get in touch with Carla Mason to determine this. How much of it is doing what the statute says and the intent of the legislation?

*Doug Ommen*

A good example of this is the implementation of the desk drawer rules investigation section charged with enforcing laws and giving the ability to negotiate forfeitures. Any legal review they said this is the law you have to pay the fine and we saw examples of this in title insurance business with Closers. No legal terminology exists with title agencies saying the need to license all closer. Doug found that many of the title agencies are being fined for this non license of closers; many of the small businesses are writing a check instead of going through the agency determining legal responsibility and a filing for a hearing in the matter.

*Chairman Scott George*

Arbitrary rules based on statutes, one of our recommendations is to train the investigation staff on the board on small business fairness. Realize they are there to help the small business comply and evaluate the big burden fees associated with the compliance. We appreciate the continued education.

*Doug Ommen*

It is important to change the process so one person addresses all institutionally.

*Chairman Scott George*

Chairman George suggested Department of Insurance talk to small business out there and comment on the board and let them know we are here and will help. See if they are being treated fairly, you can't watch them all so take the opportunity to go through the advisory panel.

*Doug Ommen*

A majority of the members on the panel have an agency of their own but are representing a national firm or organization. The agent themselves would represent small business.

*Chairman Scott George*

As of June 2006 every division leader is going over the existing regulatory rules?

*Doug Ommen*

Yes

*Chairman Scott George*

Professional registration is mostly comprised of small business with most of them sitting on the boards and are active in the rule making. Chairman George thanked Doug

Ommen for his time and presented our 2<sup>nd</sup> agency testimonial Brenda Treadwell-Martin of Department of Transportation.

*Brenda Treadwell-Martin, Equal Opportunity Director, Missouri Department of Transportation*

Brenda expressed warm greetings from MoDOT and volunteered her services as the liaison to the SBRFB in hopes of opening communication in creating a win-win situation. Brenda gave some background information on MoDOT and its mission to serve Missouri by providing a world-class transportation experience that delights our customers and promotes a prosperous Missouri. Brenda also cited some specific tools available to small business. Their website, [www.modot.mo.org](http://www.modot.mo.org), has a list of some of the services available through MoDOT. A small business may contact MoDOT to attain this information also. MoDOT measures their performances on a quarterly report which takes many different attributes into consideration. A few of these guidelines include courteous response, timely response, and comprehensive response. MoDOT also has a tracker system within their department that is able to organize the incoming customer communication. MoDOT has had the opportunity to work with SBRFB prior to the public hearing. MoDOT and the SBRFB worked jointly on a small business concern by the Country Side Greenhouse in Ash Grove and by working together we were able to resolve the matter. Brenda also stated that the liaison position would assist small business communicate their issues within MoDOT to the correct person and ensure follow through. Brenda thanked the SBRFB for providing MoDOT the opportunity to speak today and welcomes any ideas the board may have.

### **Questions:**

*Vice Chairman Randy Angst*

Can you give us an estimate of the number of situations that come to your office like the sign incident and how many have successful results?

*Brenda Treadwell-Martin*

I am unable to give an exact number at this time but the tracker system provides some of the statistical information.

*Vice Chairman Randy Angst*

Is it likely to know of any situations that need accessed?

*Brenda Treadwell-Martin*

The engineering divisions would probably be the lead in handling most of these types of situations and would be better to handle them.

*Vice Chairman Randy Angst*

Is it already or is it possible to post specific items on the website that may concern small business where they may comments, for example trash?

*Brenda Treadwell-Martin*

The tracker system can assist in correlating some of these concerns.

*Vice Chairman Randy Angst*

Can you determine the small business issues you are aware of on website versus the customer complaint small business issues are being posted on the website?

*Brenda Treadwell-Martin*

Not at this time.

*Chairman Scott George*

We would like to see some of those specific examples and respond back to us. It is important to find the common thread and change the way we do business. One speaks through many; see what you can do to encourage the agency to use the information and those who try and change the agency are dealing with small business cooperative resolution opposed to enforcement.

*Brenda Treadwell-Martin*

Any suggestions on the work we do and ways to communicate with small business we would openly welcome.

*Chairman Scott George*

A good beginning is the letter we sent out with the four recommendations of the SBRFB when agencies work with small business. Some of which include the impact and response time of agencies and provide formal training to assist in enforcement of compliance. The individuals who deal with small business need to assist the small business and make them aware of their options. The SBRFB is here for their comments and we encourage those to do so. Chairman George thanked Brenda Treadwell-Martin for coming today.

Chairman George introduced the 2<sup>nd</sup> part of today's hearing as the public testimony. Each scheduled speaker again will have 5 minutes and those who sign in today will be limited to 3 minutes. Thank you for attending and commenting today, we appreciate you sharing your story with us. The 1<sup>st</sup> speaker will be Ms. Roberta Johnson.

#### **Scheduled Small Business Speakers:**

*Roberta Johnson, Country Side Greenhouse, Ash Grove*

Roberta Johnson is the owner of the Country Side Greenhouse in Ash Grove. Nearly two years ago Roberta rented a space from an individual and erected a sign at the exit of I-44 to inform customers on how to get to the greenhouse. MoDOT contacted Roberta and said the sign was not in legal limits from the highway and needed to be moved. A representative from MoDOT, Jessica, came out to the sign location and told Roberta where to post the sign in legal limits. Roberta complied and moved the sign where Jessica had suggested. MoDOT came out again to saw the sign down; it was suggested she call Scott Taylor. Roberta was commented that Jessica was to resolve this issue and if she liked she could request a hearing but it would be a waste of her time because no

one has won a case against MoDOT. Roberta began to write letters and distributing them all over her community. Chairman Scott George saw her story and got in touch with her and offered the services of the SBRFB. The SBRFB replied to MoDOT on behalf of Roberta and began a dialogue in hopes of resolving the issue. MoDOT has since agreed to return and erect the sign in the legal limit area but during the whole experience Roberta felt insignificant to MoDOT.

**Questions:**

*Michael Ocello*

Where will the sign be going at the present day?

Roberta Johnson

Along the I-44 exit within legal limits away from highway.

*Vice Chairman Randy Angst*

In regards with the MoDOT representative, what has MoDOT done in a proactive fashion since the issue to help other land owners in the same case violations and when did the rule change for the sign limitations?

*Brenda Treadwell-Martin*

I believe in 2005 the rule change occurred; MoDOT does recognize that proactive measures need to be in place to avoid similar situations in the future but specifically nothing designated at this time for small business.

*Vice Chairman Randy Angst*

Is it possible to have easy to read regulation on website; because I am curious for sign holders along I-44 and if they are in violation to this rule?

*Brenda Treadwell-Martin*

I am unsure if it is posted at this time, I will look follow up to determine.

*Chairman Scott George*

Is the sign permit a grandfather sign because she will need to know if it falls if she can erect it or not?

*Brenda Treadwell-Martin*

We will need to review statue to see whether or not it is a grandfathered sign.

*Chairman Scott George*

She definitely will need to know what type of sign it is classified as. Chairman George told the story of how he was tracking Roberta down to assist her and he came across many of her competition and everyone was willing and persistent in finding Roberta. Each of the other small business have similar concerns and as stated before I speaks for many.

*Michael Ocello*

Will MoDOT pay the cost of the sign being erected again, also when a MoDOT employee writes a letter does the agency wide have to comply?

*Brenda Treadwell-Martin*

Yes, MoDOT will pay the costs for the sign to be re-erected. Originally the sign was in compliance but with the change of the rule in 2005 this is when the problem was created for Country Side Greenhouse.

*Michael Ocello*

My concern is MoDOT told her original the sign was in compliance and they returned to say it wasn't in compliance; shouldn't we have compliance in the beginning?

*Brenda Treadwell-Martin*

MoDOT is working on improving communication between the department and our customers.

*Chairman Scott George*

For small business when an employee writes a letter this bounds the whole organization.

*Brenda Treadwell-Martin*

There definitely is a need for an instrumental voice but it cannot be heard with so many employees. We hope with the liaison at least there is a central contact person.

*Chairman Scott George*

Chairman George introduced the 2<sup>nd</sup> small business speaker Russ Henry.

*Russ Henry, IndentiPro, North Kansas City*

Russ expressed his thanks to the SBRFB and the staff so small business have an outlet for their concerns and issues. Russ is the Director of Methods for IndentiPro an electronic fingerprinting agency based out of North Kansas City. Prior to September 11 IndentiPro was 1 of 4 agencies offering this type of service nation wide. We submitted a bid with the Office of Administration for our services but were underbid by an out of state agency. Russ made clear that his issue is not the decline of their bid but the states requirement of contract service for private industries. Russ explained this as the state going out and buying fuel from one vendor and telling everyone they have to buy from that one gas vendor. Russ explained that the state supplied a letter and email to contracted and non contracted professional registration agencies saying they were no longer allowed to use their services but the state sponsored company. Russ is unable to supply his clients with a timely service due to the incapability of filing electronically through the state. IndentiPro has offered on occasion to supply the cost and technology for this service. Russ aggress his company may be the higher service cost but consideration must be taken in effect with his company supplying a quicker and more convenient on site service. In 2003 IndentiPro meet with the state agency and received verbal verification of their services but 30 days later were contacted and declined due to "political reason". Since the decline IndentiPro has made over 300 phone calls to remedy their situation and has



received no support until now. Russ voiced his concern with why a Missouri state agency would want to put Missouri based business out of business. Due to the deterioration of the business IndentiPro has sought out of state ventures. This is a Missouri based and employed company and we wish to stay but see no alternative.

**Questions:**

*Chairman Scott George*

To better understand, you are no longer allowed to submit to the highway patrol fingerprints? If you could submit them to an alternate location you would still be in business? Prior you were allowed to send in fingerprints by paper, are you still able to do that?

*Russ Henry*

We have submitted fingerprinting electronically, just not in the state of Missouri. It is bad business for a company to wait on results.

*Chairman Scott George*

Can the firm the state went with accept electronic submission?

*Russ Henry*

IndentiPro offered a few years ago to supply the state with the electronic filing software and funding.

*Chairman Scott George*

It would be wise for a standard protocol electronic submission each serving their local population. Administration reason we don't accept any other contractor coming in.

*Russ Henry*

We offered to put in line to allow for the extra data.

*Chairman Scott George*

What are the risks?

*Russ Henry*

The software is needed to look for virus and information conformity to state standards and high way patrol standards. The technology is off the shelf with certain fixtures in place for encryption.

*Michael Ocello*

You are no longer allowed to submit to the highway patrol because the source is a 3<sup>rd</sup> party. What agency is in charge of this?

*Russ Henry*

Office of Administration Information Technology section, we want to work



*Vice Chairman Randy Angst*

Can you tell us what this is costing Missouri businesses more or less to go through the state preferred company?

*Russ Henry*

We were the higher bid but we have a wider span of location and quicker time frame. We get it done faster by showing up there on site.

*Vice Chairman Randy Angst*

Lost income, educate me on the analogy of drug testing; can it be comparable to this situation?

*Russ Henry*

I am unaware of any other situation where the state requires a specific company. Russ thanked the SBRFB for this opportunity.

*Chairman Scott George*

Chairman George asked if there was anyone unscheduled who would like to speak. With that said Chairman George introduced the 3<sup>rd</sup> small business speaker Nancy Good.

#### **Unscheduled Small Business Speakers:**

*Nancy Good, The Title Company, Joplin*

Nancy Good is the owner of a title company located in Joplin and originally she didn't plan to speak but after hearing Doug Ommen's testimony felt encouraged to come forward. Nancy has concerns with the inconsistency of licensing information. Nancy has met with the Department of Insurance in the past and there is still this lack of consistency with licensing requirements. For example after listening to Doug today she is disheartened to learn she just paid a fine for a violation of closer licensing. Nancy also has concerns with the fees and their appropriateness. Nancy wishes and hopes for a better line of communication.

#### **Questions:**

*Chairman Scott George*

Have you met with the Department of Insurance in the recent past?

*Nancy Good*

She wrote letters about 3 years ago and continues to have ongoing questions. The underwriters have more time than the small business.

*Michael Ocello*

Doug, what do you recommend to do for small business in this situation?

*Doug Ommen*

Doug has personally worked on this issue and has given his concerns onto an attorney to negotiate. Insurance is currently addressing what to do about the fining. The investigator should not be able to fine; investigator units were comprised many years ago and will be revamped. In most cases the small business does not have the time to contest the fine so they pay the fees. Insurance needs to allow for that discussion.

*Michael Ocello*

How can small business be updated?

*Doug Ommen*

There is a bulletin that will go out stating which personnel need to be licensed. This bulletin will be going out to agencies and insurers.

*Chairman Scott George*

Coming from certain cases sitting down with a group of folks and going through the process to see who needs to be licensed. This worked in the federal level. The different associations got together and addressed the needs of one another. In one case this was reflected in an improvement from 22 industrial deaths to 0.

*Doug Ommen*

Determining and insurability; what that means in the form of order is for history and precedence why we are trying to review regulations and or negotiated order years down the road.

*Chairman Scott George*

To help construct the rules and guidance issues for small business still comes as rule.

*Doug Ommen*

Title schools are more transparent in reaching out.

*Vice Chairman Randy Angst*

I appreciate the tone and commend you for your efforts. Part of the law also has a clause if there was a less fine?

*Doug Ommen*

Fines depend on who and how much. A closer trainee is used if you are not sure you want to license them right away but you want to keep that person. It is not so much in this case the size of the fine it is in the case we should not be imposing the fine to begin with. We need to better the sloppy title searches, we should be doing it and that is what we are changing.

*Vice Chairman Randy Angst*

What is the levee of a fine or severity?

*Doug Ommen*

All over the map.

*Chairman Scott George*  
There is no consistency.

*Doug Ommen*  
We have a principle to address.

*Chairman Scott George*  
Chairman George thanked Nancy Good for her story and turned the hearing over to Vice Chairman Angst as he would be the 4<sup>th</sup> small business speaker.

*Chairman Scott George, Mid-America Dental & Hearing Center, Mt. Vernon*  
Chairman George discussed his experience as a small business and his dealings with a state agency on a positive note. Chairman George experienced an audit of his business along with a few of his colleagues. From his experience Chairman George wrote an article on the trends of sales tax. Some of the issues discussed are what sales tax is, what was charged, what was paid in and out of state. Chairman George forwarded the article onto the Department of Revenue for an initial reaction. Jane Gardner from the Department of Revenue was Chairman George's contact within the department and was extremely helpful and supportive of the purpose behind the SBRFB. Chairman George extends his thanks to Jane Gardner and commented small business and state agency can work together.

*Vice Chairman Randy Angst*  
Vice Chairman Angst extended his thanks to the Springfield Chamber of Commerce for the use of their facility and the media in publication of the meeting. Channel 10 ran 3 stories for the SBRFB Public Hearing. Thank you

*Chairman Scott George*  
Chairman asked if Wendell Bailey, US Small Business Administration, had anything to add.

*Wendell Bailey, US Small Business Administration*  
Wendell echoed what Vice Chairman Angst said. He also thanked the continued support of the Better Business Bureau. They continue to relay the SBRFB information out to the public.

*Chairman Scott George*  
Chairman George thanked Vice Chairman Angst, SBRFB member Michael Ocello and the state agency representatives. He expressed his anticipation for future discussions and assistance with the agencies. Chairman George also thanked those who testified at the hearing. With that said the SBRFB Public Hearing was concluded at 3:09 p.m.